

STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a Contract for services between the State of Vermont, Department of Vermont Health Access (hereinafter called “State”), and DataStat Inc., with a principal place of business in Ann Arbor, Michigan, (hereinafter called “Contractor”). Contractor’s form of business organization is a Corporation. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this Contract is services generally on the subject of executing the Patient Experience Survey supporting the provision of information about a broad range of key consumer issues, such as overall satisfaction, average wait times, physician availability, obstacles to receiving care, and parents’ impressions of their children’s care to consumers, purchasers, and practices Detailed services to be provided by Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$292,000.00.
4. **Contract Term.** The period of Contractor’s performance shall begin on July 1, 2021 and end on June 30, 2023.
5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.
6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this Contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
7. **Termination for Convenience.** This Contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this Contract for all services provided to and accepted by the State prior to the effective date of termination.
8. **Attachments.** This Contract consists of fifty-two (52) pages including the following attachments which are incorporated herein:

Attachment A - Statement of Work

Attachment B - Payment Provisions

Attachment C – Standard State Provisions for Contracts and Grants

Attachment D – Other Provisions for IT Professional Services

Attachment E – Business Associate Agreement

Attachment F – Agency of Human Services Customary Contract Provisions

Appendix 1 – Additional questions for the CAHPS ® PCMH Surveys

9. *Order of Precedence.* Any ambiguity, conflict or inconsistency between the documents comprising this Contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment D
- (3) Attachment C
- (4) Attachment A
- (5) Attachment B
- (6) Attachment E
- (7) Attachment F

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

BY THE STATE OF VERMONT:

E-SIGNED by Sandi Hoffman
on 2021-06-05 09:52:41 GMT

SANDI HOFFMAN
AHS/DVHA
NOB 1 South, 280 State Drive
Waterbury, VT 05671-1010
Phone: 802-241-0246
Email: Sandi.Hoffman@vermont.gov

BY THE CONTRACTOR:

E-SIGNED by Marielle Weindorf
on 2021-06-04 20:10:45 GMT

MARIELLE S. WEINDORF
3975 Research Park Dr,
Ann Arbor, Michigan 48108
Phone: 734-994-0540
Email: mweindorf@datastat.com

ATTACHMENT A – STATEMENT OF WORK

BACKGROUND

For the first task, measuring patient experience in advanced primary care, the Contractor shall use the Consumer Assessment of Healthcare Providers and Systems Clinician and Group (CAHPS®-CG) 12-month survey (with or without the Patient-Center Medical Homes (PCMH) items) to assess patient care experience in practices that are part of several different health care payment and delivery reform initiatives.

For the second task, measuring patient experience for adults and children enrolled in Medicaid, the Contractor shall conduct the survey administration of the CAHPS® Survey Project for the State of Vermont Medicaid Program for its adult and child populations.

The Contractor shall be a Certified Contractor of CAHPS®-CG (with or without PCMH items) and CAHPS® 5.1H and shall maintain its status as a CAHPS®-CG (with or without PCMH items) and CAHPS® 5.1H Contractor. Contractor shall have a certification for CAHPS®-CG (with or without PCMH items) and CAHPS® 5.1H from the National Committee for Quality Assurance (NCQA).

SCOPE

The Contractor shall complete two (2) tasks for the State:

- CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling; Collection and Data Reporting
- CAHPS® 5.1H for the Medicaid Population Project Activities – Data Sampling; Collection and Data Reporting

TASK 1: CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection

The Contractor shall use CAHPS®-CG (with or without PCMH items) to gather patient and families' perceptions of access to care, comprehensiveness of care, communication and shared decision making with providers, self-management support, office staff helpfulness and respect, and other domains as directed, to evaluate patient experience of care at primary care practices that have been recognized as medical homes. The State shall determine whether the Contractor will use the PCMH items in the CAHPS®-CG survey based upon feedback from the participating practices and patient-centered medical homes. The State will make this determination one week after Contract execution (tentatively July 7, 2021) to be implemented for the surveys to be fielded during Fall 2021.

Deliverables will be reports for each practice, delivered in Excel, and data submission to the State. As previously determined by the State, participating practices will not have the option of submitting their results to NCQA as part of the NCQA CAHPS PCMH Recognition Program, in order to earn Special Distinction in Patient Experience Reporting. Approximately 135-140 practices associated with the State's efforts will participate in the survey. A finalized detail of the participating sites, and contact information for each site, will be provided by the State. Contractor shall work closely with the State and the practices to generate the required sample frames and other materials for the project.

Below are detailed proposed project specifications, followed by definitions of our standard services and protocols.

Project specifications

A. Sampling

- Sample Frames: Up to 140 practice sites (see table below)
- Sample frame eligibility: Adults or children who have been seen by an eligible provider in the last 12 months
- Sampling plan: Per NCQA sampling plan, based on the “n” of eligible providers
- Oversampling upon request of the State or practice (with approval of the State)
- Total sample n = TBD
- Sample source: Participating Practice sites
- Preferred Language Variable: No
- Sample with replacements for bad addresses
- Standard deduplication: Household and Statewide CAHPS
- National Change of Address (NCOA)

# of Providers at site	# Practices
1	6
2-3	30
4-9	67
10-13	20
14-19	7
20-28	3
29+	1

B. Mail Materials and Protocol

Materials

- C&G CAHPS 3.0 or the beta C&G CAHPS 4.0 survey, plus PCMH question module
- Supplemental questions: Adult = 13 questions; Child = 13 questions
- 8-page booklet
- Practice Site logos and signatures for cover letters and questionnaires
- If Practice Site does not provide or approve site logos or signatures, a default printed site name and signature will be used for the cover letter.

Protocol:

- Mail Only: Survey packet #1, Survey Packet #2 to non-responders
- Internet Option - TBD

Languages:

- English only
- Spanish option - TBD

Completion Criteria:

- R answers one or more survey questions and responses indicate that R meets the eligible population criteria

Respondent support:

- Toll-free telephone support

- Times: Answered live: 9am – 8 pm EST

C. Reporting / Deliverables

Project updates:

- Project plan and timeline
- Weekly status updates throughout field period

Datasets:

- Standard response/non-response dataset provided to the State
- Format: SAS, SPSS or Excel (TBD)
- Receive ACO membership dataset from each ACO
- Merge hospital service area and ACO stratified by payer onto the full response dataset
- Submit merged dataset to third-party through secure file transfer protocol

Final Reporting:

- Practice level reports, delivered in Excel
- Reports are delivered to each practice at the conclusion of the data collection

Record Retention:

- Contractor shall maintain all electronic project records for three (3) years. Upon completion of the data collection field period, Contractor shall shred all returned questionnaires, unless other arrangements are made with the Contractor's Project Manager.

TASK 2: CAHPS® 5.1H for the Medicaid Population Project Activities - Data Sampling and Collection and Data Reporting

Contractor shall conduct the survey administration phase of the 2021 Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey Project for the State of Vermont Medicaid Program for its adult and child populations.

The sample will include **one (1) Statewide sample** that includes eligible Adult Medicaid beneficiaries, and **one (1) Statewide sample** of eligible Child Medicaid beneficiaries. The Adult and Child Medicaid (No CCC) CAHPS 5.1H Survey will be used. The data collected will **not** be submitted to NCQA. The data collected will be submitted to the CAHPS Benchmarking Database in June of each Contract year.

Proposed project specifications are described below, followed by standard services and protocols.

Project specifications

A. Sampling

- Adult Medicaid sample: 1,650
- Child Medicaid sample: 1,650
- Total Sample $n = 3,300$
- VT Medicaid may elect to oversample
- VT Medicaid will provide eligible sample frame

- Sample with Replacements for insufficient addresses and telephone numbers, and when duplicate household records are encountered
- NCOA

B. Mail Materials and Protocol

Materials

- Adult Medicaid CAHPS 5.1H survey instrument; 8 pages
- Child Medicaid (without CCC) CAHPS 5.1H survey instrument: 8 pages
- 4 supplemental questions - TBD
- Contractor shall provide Spanish translations of the cover letters
- VT Medicaid logo on Cover letters and Questionnaire
- VT Medicaid Signature on Cover letters
- English Cover letters to include non-customized text on the backside with toll-free number for members to call and request the survey in alternate language (i.e., Spanish).

Protocol:

- Mail Only: (1st Survey Packet, 1st Reminder Postcard, 2nd Survey Packet)
- Mail: English Only
- Spanish: Spanish survey requests to be completed via CATI only, upon request

Languages:

- English
- Spanish: Spanish survey requests to be completed via CATI only, upon request

Completion Criteria:

- The respondent answers 3 of 5 required survey questions
- Responses indicate that the respondent meets the eligible population criteria

Respondent Support:

- Toll-free telephone support
- Alternate language requests handled
- Answered live: 9am – 8 pm EST

C. Reporting

Project Updates:

- Status updates throughout field period (i.e., weekly disposition reports);

Data Set:

- Standard response data sets
- VT Medicaid to provide format specifications (i.e., data file layout), if necessary
- Format: SAS or SPSS

Final Reporting:

- Contractor Standard Overview Report for each population

Submissions:

- Contractor shall submit the final dataset to the CAHPS Benchmarking Database

Record Retention:

- Contractor shall maintain all electronic project records for three (3) years. Upon completion of the data collection field period, Contractor shall shred all returned questionnaires, unless other arrangements are made with the Contractor Project Manager.

Standard Services and Protocols

Services and protocols described below apply to all survey projects unless otherwise stated in the Project Specifications.

A. Sampling

1. The sample frame file shall be submitted to Contractor in a prescribed standard format with fixed fields, fixed length records, and no delimiters. All required data file elements must be included in the sample frame. A data file layout shall accompany the sample frame.
2. The sample frame shall be submitted to Contractor through the Contractor's Transfer Center – a website utilizing 256-bit encryption through SSL to securely transfer files using a web browser, or on physical media (CD-ROM), encrypted.
3. Upon receiving the sample frame representing all eligible enrollment data files, Contractor shall check the file for accuracy and completeness, and shall review and refine it for appropriateness as a sampling frame. Contractor shall work with state staff to resolve any sample frame data file problems, as needed.
4. Contractor shall de-duplicate the data files to ensure that each member is represented only once in the sampling frame.
5. From the set of all eligible members, a sample will be drawn using standard random or other selection procedures, per project specifications.
6. After the sample has been selected, Contractor shall use a National Change of Address (NCOA) service to update address information.
7. Selected sample(s) will be de-duplicated to ensure that only one member per household appears.

B. Mail Data Collection - If a project requires mail data collection, the following standards and protocols will apply.

8. Questionnaires shall be formatted using Contractor's standard layout and design, which shall produce an instrument of a length determined by project specifications.
9. Supplemental questions may be added to the questionnaire, if allowed by the survey protocol. Contractor shall work with the state to arrive at the optimal language and placement for

supplemental items, in accordance with any language, placement, and other protocol requirements.

10. Length of survey instruments is a key element in survey cost; Contractor shall notify the state to discuss any additional costs or timeline impact if the questionnaire layout results in an instrument longer than anticipated.
11. Letter text shall be based on project specifications. The length of the text will allow for Contractor's standard formatting and accommodate the use of the Contractor standard outgoing envelope. Contractor shall work with the state to revise the text of this letter, as needed.
12. Cover letters will be customized with the name and verified address of the selected member, and other customizations per project specifications.
13. Prior to producing final materials to be mailed, Contractor shall provide the state with examples of all materials for approval, if allowed by the survey sponsor.
14. Using Contractor's in-house mail production equipment, Contractor shall create and mail to each individual in the sample their customized survey in a personalized survey packet with the following format:
 - a. Outgoing envelope:**
 - White, appropriately sized windowed envelope provided by Contractor
 - State name or logo, Contractor return address, selected member's name and verified address and other customizations per project specifications, via appropriately sized envelope windows
 - First class postage imprint
 - USPS "Electronic Address Service" used on the initial mail piece
 - b. Questionnaire:**
 - Formatted Microsoft Word file
 - Printed in-house on white sheets of 11x17 paper, folded to produce a booklet per specified length
 - Customized to individual member level with insertion of bar-coded tracking data
 - c. Cover letter:**
 - Laser printing, allowing for text insertions, member name and address, signature and other customizations per project specifications, printed in black
 - Text per project specifications; length will accommodate Contractor's format requirements
 - d. Return envelope:**
 - Appropriately-sized, white return envelope with Contractor's address inserted into each outbound packet
 - Business reply imprint on the return envelope, using Contractor's business reply account

15. As undeliverable surveys and alternate addresses are returned to Contractor by the postal service, Contractor shall update internal records accordingly.
16. Contractor shall cease all subsequent follow-up efforts to any individual having expressed a desire not to participate in the survey project.
17. As surveys are returned, Contractor shall enter all received data into the appropriate computer system. After data entry has been completed, Contractor shall conduct data cleaning and perform both format and outlier checks, according to Contractor standards.
18. Completeness testing will be conducted per project specifications.

C. Telephone Data Collection - If a project requires electronic telephone data collection (Computer Assisted Telephone interviewing or CATI), the following standards and protocols apply.

19. Contractor shall program the state's customized telephone survey for Contractor's Computer Assisted Telephone Interviewing (CATI) system.
20. Contractor shall provide state the programmed CATI instrument for previewing and approval, as needed and allowed, prior to fielding.
21. Contractor shall use a telephone number verification service to locate and update telephone numbers.
22. Consent to use all telephone numbers provided to Contractor by the state to conduct the survey shall be assumed during electronic telephone data collection.
23. All telephone numbers, regardless of source, will be screened prior to use in electronic telephone data collection to identify those which are associated with cell phones, in order to dial them appropriately and according to TCPA regulations.
24. Call attempts shall be made to each sample case in the telephone follow-up database; calls shall be distributed by our sample management system across daytimes, evenings, and weekends to determine viability of the number.
25. Every effort shall be made to interview difficult to reach respondents. This shall include:
 - After determining that the telephone number in the sample database is incorrect, steps will be taken to find the correct number, up to and including accepting new telephone numbers for the respondent taken from another member of the household.
 - If a respondent is away from the household, a firm appointment will be made to attempt recontact when the respondent returns.
 - If a respondent is too ill at the time of the call, a firm appointment will be set to attempt recontact at a later date within the data collection period.

26. For survey projects requiring electronic telephone data collection, Contractor may, at Contractor's discretion, make use of subcontractors to assist in completing the required number of calls during the telephone field period. All such subcontractors have been vetted by Contractor and are subject to all provisions of this Contract.

D. Web Data Collection - Should a project require electronic web-based data collection, the following standards and protocols shall apply.

27. Contractor shall program the Client instrument for a web response option, using Contractor's in-house web server.
28. The pre-notification letter shall contain a unique URL that the respondent may use to access the web-based instrument and complete the survey online.
29. Contractor shall offer the state the opportunity to review the Web-based survey tool for final approval.
30. The web-based response option shall be available throughout the data collection period.

E. Respondent Support

31. Throughout data collection, Contractor shall maintain a project-specific, toll-free respondent assistance line from 9am to 8pm (EST) Monday through Friday. Calls outside these hours will be referred to voicemail.
32. The Contractor toll-free respondent assistance line shall appear on mailed materials and shall be available to telephone interviewers should it be requested by a respondent completing an interview via telephone.
33. Alternate language or replacement survey requests may be collected via the toll-free respondent assistance line and/or incorporated into the data collection protocol per project specifications.
34. For survey projects requiring respondent support in languages other than English or Spanish, Contractor may, at our discretion, make use of subcontractors to assist in providing toll-free respondent support during data collection. All subcontractors have been vetted by Contractor and are subject to all provisions of this Contract.

F. Deliverables and Reporting

35. Contractor shall provide the Client with a project plan. The plan shall include a detailed schedule showing major activities and deliverables and will adhere to all survey sponsor requirements. The plan and schedule shall be developed by mutual agreement between the state and Contractor, as feasible within the scope of the project.

36. On a periodic basis as appropriate, Contractor shall provide the state with status reports. The schedule will be determined by project milestones and, when possible, by mutual agreement between the state and Contractor. During the data collection period, reports shall include the total survey completes to date and a summary of sample dispositions resolved since the previous report was issued.
37. After interviewing and data entry have been completed, a dataset will be prepared for the state, as allowed. The dataset shall include values for each questionnaire item by completed case and shall be purged of any respondent identification information (i.e., name, address, and telephone number).
38. The dataset shall be submitted in a choice of format (SAS, SPSS, Excel, etc.), organized as a single record for each member composed of a string of fields containing data values. Weighting of the data is not included, but we can apply weights provided by the Client, at additional cost, if desired. A data file layout with defined labels and values will accompany each dataset.
39. Datasets delivered to an entity such as NCQA, CMS, RAND or other agency, shall be submitted on or before the required deadline using the prescribed format and the designated delivery pathway, per project specifications.
40. Banner Book or graphical reporting, as allowed, will be conducted according to project specification. Contractor shall work with the state to develop and produce customized reports if the state elects this option.
41. In all data presentations, such as Banner Books, overview reports, or graphical reports, any results or cells with less than eleven 11 cases will be suppressed and replaced with 'NA', per CMS specifications.
42. Contractor shall shred all returned questionnaires upon completion of the project, unless otherwise required by project specifications or other arrangements are made with the Contractor's Project Manager.
43. Contractor shall retain electronic records of the project as described in the project specifications.

SAMPLE DELIVERABLE TIMELINE

A. DATA SAMPLING and COLLECTION

The Contractor shall complete two (2) tasks for the State. Two items are related to data sampling and collection:

1. Task 1 - CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling; Data Collection and Data Reporting
2. Task 2 - CAHPS® 5.1H for the Medicaid Population Project Activities – Data Sampling; Data

Collection and Data Reporting

The Sample Deliverable Timeline below provides a template for the project plan to be delivered to the State no more than two weeks after the execution of the Contract.

Sample Deliverable Timeline	Occurs on or before each date for each Contract Year
Contract commences	July 1
Contractor contacts practices for receipt of BAAs, sample frame files, and logos and signatures, henceforth known as 'Submission 1'	September 8
Submission 1 reminder email sent	September 15
Sample frame file submission window closes	September 22
Actual frame file submission window opens	September 25
Logos & signatures submission window closes	September 29
Actual frame file reminder email	October 2
BAAs completed by required practices	October 6
Actual frame file submission window closes	October 9
Data collection: 1 st mailing	November 3
Data collection: 2 nd mailing	November 22
Data collection field closes	December 15

B. DATA REPORTING

The Contractor shall complete two (2) tasks for the State. Two items are related to reporting:

1. Task 1 - CAHPS®-CG, with or without PCMH items, Project Activities – Data Reporting
2. Task 2 - CAHPS® 5.1H for the Medicaid Population Project Activities – Data Reporting

Sample Deliverable Timeline	Occurs on or before each date for each Contract Year
Contract commences	July 1
Contractor submits project plan to the State	July 14
Contractor submits standards for processing incoming mail to the State	Within 14 days of Contract execution
Weekly reports on: <ul style="list-style-type: none"> • Total surveys completed to date • Summary of sample dispositions resolved since previous report • Any problems encountered & their resolution 	September 8 – December 15
Dataset completed for the State	March 30
Practice-level reports completed for the practices	February 2
Two Standard Overview Reports, one for adult and one for child, completed for Medicaid / additional	March 30

Standard Overview Reports for specialized subpopulations	
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ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this Contract is not intended as any form of a guaranteed amount. The Contractor shall be paid for products or services actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this Contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this Contract; and
 - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. Contractor shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract # for this Contract.
4. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment B. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly.
5. Invoices shall be submitted to the State at the following address:
AHS.DVHAInvoices@vermont.gov
6. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are as follows:
7. Contractor invoices shall be submitted no more frequently than monthly, but no later than quarterly and shall be in accordance with this Attachment B.
8. The Contractor shall subdivide invoicing based on tasks in Attachment A;
 - a. For Task 1, each invoice must include:
 - i. a unique invoice number
 - ii. contract number
 - iii. dates of service
 - iv. accurate date of invoice submission request for payment shall include the number of practices fielded and be subdivided by the cost per practice, which includes:
 1. the set-up fee for the survey group: \$347.70; if the practice is fielding both an adult and child survey the set-up fee will be \$695.40
(=\$347.70*2);
 2. the number of cases fielded at the practice, noting any oversampling conducted at the request of the State;

3. the total cost per practice; and
4. ACO reporting costs shall be invoiced as development and production per table below.
- b. For Task 2, each invoice must include:
 - i. a unique invoice number
 - ii. contract number
 - iii. dates of service
 - iv. accurate date of invoice submission request for payment shall be subdivided by the number of cases fielded within each survey group and include the cost per case: \$9.27.
 - v. when applicable, accurate date of invoice submission request for payment shall be additionally subdivided by the cost per case to oversample specialized subpopulations: \$9.27.
9. Contractor will not be reimbursed for expenses, including supplies, benefits, or insurance.
10. Invoices shall be accompanied by a:
 - a. Financial Reporting Form in Excel format (to be provided by the State). A final Financial Report Form will be due no later than 30 days after the end date of the agreement. The final financial report will report actual approved expenditures against payments received.
 - b. Master list of practices as maintained by the Contractor, in a format determined by the State.
11. The maximum amount payable under this Contract for services shall not exceed \$146,000.00 per Contract year. The maximum allowable payable for the period of this Contract, July 1, 2021 to June 30, 2023 shall be subdivided as follows:

Task 1: Data Collection and Sampling for the CAHPS®-CG (with or without PCMH items) Project
AND Task 2: Data Reporting for the CAHPS®-CG (with or without PCMH items) Project

Requirements for Fielding	
# Providers at Site	Minimum Sample Size (per NCQA)
1	128
2-3	171
4-9	343
10-13	429
14-19	500
20-28	643
29+	686

Total Survey Field Costs

		Column A	Column B	Column C	Column D
<i>VTID</i>	<i>Practice Name</i>	<i>Set up Fee (\$347.70 per survey group; the practice determines whether they wish to field both survey groups)</i>	<i>Number of Cases Fielded</i>	<i>Field Cost (=Column B * \$1.44)</i>	<i>Total Cost (= Column A + Column C)</i>

Task 3: Data Collection and Sampling for the CAHPS® 5.1 Child Medicaid Survey Project

	Column A	Column B	Column C
<i>Survey Group</i>	<i>Number of Cases Fielded</i>	<i>Field Cost (\$9.27)</i>	<i>Total Cost (= Column A + Column B)</i>
Adult			
Child			

Budget

Budget July 1, 2021 to June 30, 2022

Blueprint and Medicaid Patient Experience Survey Budget Summary		
Task	Description	Total Amount Budgeted
Task 1	CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection CAHPS®-CG (with or without PCMH items) Project Activities – Data Reporting	\$112,391.42
Task 2	CAHPS® 5.1H for the Medicaid Population Project Activities – Data Sampling and Collection and Data Reporting	\$30,591.00
Tasks 1 & 2 for Year One		\$142,982.42
Budget July 1, 2022 to June 30, 2023Blueprint and Medicaid Patient Experience Survey Budget Summary		
Task	Description	Total Amount Budgeted
Task 1	CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection CAHPS®-CG (with or without PCMH items) Project Activities – Data Reporting	\$112,391.42
Task 2	CAHPS® 5.1H for the Medicaid Population Project Activities – Data Sampling and Collection and Data Reporting	\$30,591.00
Total for Year Two		\$142,982.42
Other	Ad Hoc – For additional oversampling as requested July 1, 2021 – June 30, 2023	\$6,035.16
Total	July 1, 2021 – June 30, 2023	\$292,000.00

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs

only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations

- Products and Completed Operations

- Personal Injury Liability

- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Each Occurrence

- \$2,000,000 General Aggregate

- \$1,000,000 Products/Completed Operations Aggregate

- \$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State,

payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A. is not under any obligation to pay child support; or
- B. is under such an obligation and is in good standing with respect to that obligation; or
- C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

26. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

27. Termination:

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

C. Mandatory Disclosures: In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

A. Certification Regarding Use of State Funds: If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

B. Good Standing Certification (Act 154 of 2016): If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in

Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

ATTACHMENT D
INFORMATION TECHNOLOGY PROFESSIONAL SERVICES
TERMS AND CONDITIONS (rev. 3/21/19)

1. OWNERSHIP AND LICENSE IN DELIVERABLES

1.1 Contractor Intellectual Property. Contractor shall retain all right, title and interest in and to any work, ideas, inventions, discoveries, tools, methodology, computer programs, processes and improvements and any other intellectual property, tangible or intangible, that has been created by Contractor prior to entering into this Contract (“Contractor Intellectual Property”). Should the State require a license for the use of Contractor Intellectual Property in connection with the development or use of the items that Contractor is required to deliver to the State under this Contract, including Work Product (“Deliverables”), the Contractor shall grant the State a royalty-free license for such development and use. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property, provided the State shall be granted an irrevocable, perpetual, non-exclusive royalty-free license to use any such Contractor Intellectual Property that is incorporated into Work Product.

1.2 State Intellectual Property. The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, “State Intellectual Property”).

Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

1.3 Work Product. All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of law or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

“Work Product” means any tangible or intangible ideas, inventions, improvements, modifications, discoveries, development, customization, configuration, methodologies or processes, designs, models, drawings, photographs, reports, formulas, algorithms, patterns, devices, compilations, databases, computer programs, work of authorship, specifications, operating instructions, procedures manuals or

other documentation, technique, know-how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection), that is specifically made, conceived, discovered or reduced to practice by Contractor, either solely or jointly with others, pursuant to this Contract. Work Product does not include Contractor Intellectual Property or third party intellectual property.

To the extent delivered under this Contract, upon full payment to Contractor in accordance with Attachment B, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to all Deliverables, except to the extent they include any Contractor Intellectual Property; and (ii) grants to State a perpetual, non-exclusive, irrevocable, royalty-free license to use for State's internal business purposes, any Contractor Intellectual Property included in the Deliverables in connection with its use of the Deliverables and, subject to the State's obligations with respect to Confidential Information, authorize others to do the same on the State's behalf. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor Intellectual Property.

The Contractor shall not sell or copyright a Deliverable without explicit permission from the State. If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor Intellectual Property or Contractor Intellectual Property developed outside of this Contract with no assistance from State.

2. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING

2.1 For purposes of this Contract, confidential information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party's possession prior to its receipt from the disclosing party; (c) is independently developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is not exempt from disclosure under applicable State law.

2.2 Confidentiality of Contractor Information. The Contractor acknowledges and agrees that this Contract and any and all Contractor information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for

any costs or expenses incurred by the State, including, but not limited to, attorneys' fees awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor's attempts to prevent or unreasonably delay public disclosure of Contractor's information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor's attempts to prevent public disclosure of Contractor's information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor's determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.

2.3 Confidentiality of State Information. In performance of this Contract, and any exhibit or schedule hereunder, the Party acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq ("State Data"). In addition to the provisions of this Section, the Contractor shall comply with the requirements set forth in the State's HIPAA Business Associate Agreement attached hereto as Attachment E. Before receiving or controlling State Data, the Contractor will have an information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State.

State Data shall not be stored, accessed from, or transferred to any location outside the United States. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to only those employees on its staff who must have the information on a "need to know" basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.

Contractor shall not access State user accounts or State Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Contract, or at State's written request.

Contractor may not share State Data with its parent company or other affiliate without State's express written consent.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

3. SECURITY OF STATE INFORMATION.

3.1 Security Standards. To the extent Contractor has access to, processes, handles, collects, transmits, stores or otherwise deals with State Data, the Contractor represents and warrants that it has implemented and it shall maintain during the term of this Contract the highest industry standard administrative, technical, and physical safeguards and controls consistent with NIST *Special Publication 800-53* (version 4 or higher) and *Federal Information Processing Standards Publication 200* and designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures shall include at a minimum: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include multiple levels of authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

3.2 Security Breach Notice and Reporting. The Contractor shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request.

In addition to the requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract, in the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise State Data (a "Security Breach"), the Contractor shall notify the State within 24 hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any

deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State. Contractor shall analyze and document the incident and provide all notices required by applicable law.

In accordance with Section 9 V.S.A. §2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation (“DFR”), within fourteen (14) business days of the Contractor’s discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor’s subcontractors, affiliates or agents which may be “data collectors” hereunder.

The Contractor agrees to fully cooperate with the State and assume responsibility at its own expense for the following, to be determined in the sole discretion of the State: (i) notice to affected consumers if the State determines it to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach, including but not limited to, outside investigation, forensics, counsel, crisis management and credit monitoring, in the sole determination of the State.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

4. CONTRACTOR’S REPRESENTATIONS AND WARRANTIES

4.1 General Representations and Warranties. The Contractor represents, warrants and covenants that:

- (i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
- (ii) There is no pending litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor’s ability to fulfill its obligations under this Contract.
- (iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.
- (iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the services as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the services or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.
- (v) The Contractor has adequate resources to fulfill its obligations under this Contract.

- (vi) Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.

4.2 Contractor's Performance Warranties. Contractor represents and warrants to the State that:

- (i) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.
- (ii) Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.
- (iii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

5. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, and to the extent Contractor has access to, processes, handles, collects, transmits, stores or otherwise deals with State Data, Contractor shall procure and maintain first party Breach Notification Coverage of not less than \$3,000,000.00.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.

With respect to the first party Breach Notification Coverage, Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

6. REMEDIES FOR DEFAULT. In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

7. TERMINATION

7.1 Contractor shall reasonably cooperate with other parties in connection with all services to be delivered under this Contract, including without limitation any successor provider to whom State Data, State Intellectual Property or other State information and materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting any and all State data, in a format usable without the use of the Services and as agreed to by State, at no additional cost. Any

transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a Transition Plan identifying transition services to be provided.

7.2 Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to State all State Intellectual Property and State Data (including without limitation any Deliverables for which State has made payment in whole or in part), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.

8. DESTRUCTION OF STATE DATA. At any time during the term of this Contract within thirty days of (i) the State's written request or (ii) termination or expiration of this Contract for any reason, Contractor shall securely dispose of all copies, whether in written, electronic or other form or media, of State Data according to National Institute of Standards and Technology (NIST) approved methods, and certify in writing to the State that such State Data has been disposed of securely. Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location according to National Institute of Standards and Technology (NIST) approved methods and certify in writing to the State that such State Data has been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Data.

9. IRS TERMS IF FEDERAL TAX INFORMATION WILL BE PROCESSED OR STORED (Per IRS Publication 1075)

To the extent Contractor's performance under this Contract involves the processing or storage of Federal tax information, then, pursuant to IRS Publication 1075, the following provisions shall apply in addition to any other security standard or requirements set forth in this Contract:

A. PERFORMANCE

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

1. All work will be done under the supervision of the Contractor or the Contractor's employees.
2. The Contractor and the Contractor's employees with access to or who use Federal tax information must meet the background check requirements defined in IRS Publication 1075.
3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
5. The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all

data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.

6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or his or her designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
7. All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
8. No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS.
9. The Contractor will maintain a list of employees authorized access. Such list will be provided to the State and, upon request, to the IRS reviewing office.
10. The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

B. CRIMINAL/CIVIL SANCTIONS:

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
2. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431, and set forth at 26 CFR 301.6103(n)-1.

3. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to State records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
4. Prior to Contractor having access to Federal tax information, Contractor shall certify that each Contractor employee or other individual with access to or who use Federal tax information on Contractor's behalf pursuant to this Contract understands the State's security policy and procedures for safeguarding Federal tax information. Contractor's authorization to access Federal tax information hereunder shall be contingent upon annual recertification. The initial certification and recertification must be documented and placed in the State's files for review. As part of the certification, and at least annually afterwards, Contractor will be advised of the provisions of IRCs 7431, 7213, and 7213A (see IRS Publication 1075 *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Publication 1075, Section 10). For both the initial certification and the annual certification, the Contractor must sign a confidentiality statement certifying its understanding of the security requirements.

C. INSPECTION:

The IRS and the State, with 24 hours' notice, shall have the right to send its officers, employees, and inspectors into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. for compliance with the requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology assets that access, store, process or transmit Federal tax information. On the basis of such inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

10. SOV Cybersecurity Standard 19-01

All products and service provided to or for the use of the State under this Contract shall be in compliance with State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL:

<https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT

SOV CONTRACTOR BUSINESS ASSOCIATE: DATASTAT INC.

SOV CONTRACT NO: 41764 CONTRACT EFFECTIVE DATE: JULY 1, 2021

THIS BUSINESS ASSOCIATE AGREEMENT (“AGREEMENT”) IS ENTERED INTO BY AND BETWEEN THE STATE OF VERMONT AGENCY OF HUMAN SERVICES, OPERATING BY AND THROUGH ITS DEPARTMENT OF VERMONT HEALTH ACCESS (“COVERED ENTITY”) AND PARTY IDENTIFIED IN THIS AGREEMENT AS CONTRACTOR OR GRANTEE ABOVE (“BUSINESS ASSOCIATE”). THIS AGREEMENT SUPPLEMENTS AND IS MADE A PART OF THE CONTRACT OR GRANT (“CONTRACT OR GRANT”) TO WHICH IT IS ATTACHED.

Covered Entity and Business Associate enter into this Agreement to comply with the standards promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), including the Standards for the Privacy of Individually Identifiable Health Information, at 45 CFR Parts 160 and 164 (“Privacy Rule”), and the Security Standards, at 45 CFR Parts 160 and 164 (“Security Rule”), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), and any associated federal rules and regulations.

The parties agree as follows:

1. Definitions. All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations. Terms defined in this Agreement are italicized. Unless otherwise specified, when used in this Agreement, defined terms used in the singular shall be understood if appropriate in their context to include the plural when applicable.

“*Agent*” means an *Individual* acting within the scope of the agency of the *Business Associate*, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c) and includes Workforce members and *Subcontractors*.

“*Breach*” means the acquisition, Access, Use or Disclosure of *Protected Health Information (PHI)* which compromises the Security or privacy of the *PHI*, except as excluded in the definition of *Breach* in 45 CFR § 164.402.

“*Business Associate*” shall have the meaning given for “Business Associate” in 45 CFR § 160.103 and means Contractor or Grantee and includes its Workforce, *Agents* and *Subcontractors*.

“*Electronic PHI*” shall mean *PHI* created, received, maintained or transmitted electronically in accordance with 45 CFR § 160.103.

“*Individual*” includes a Person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

“*Protected Health Information*” (“*PHI*”) shall have the meaning given in 45 CFR § 160.103, limited to the *PHI* created or received by *Business Associate* from or on behalf of Covered Entity.

“*Required by Law*” means a mandate contained in law that compels an entity to make a use or disclosure of *PHI* and that is enforceable in a court of law and shall have the meaning given in 45 CFR § 164.103.

“*Report*” means submissions required by this Agreement as provided in section 2.3.

“*Security Incident*” means the attempted or successful unauthorized Access, Use, Disclosure, modification, or destruction of Information or interference with system operations in an Information System relating to *PHI* in accordance with 45 CFR § 164.304.

“*Services*” includes all work performed by the *Business Associate* for or on behalf of Covered Entity that requires the Use and/or Disclosure of *PHI* to perform a *Business Associate* function described in 45 CFR § 160.103.

“*Subcontractor*” means a Person to whom *Business Associate* delegates a function, activity, or service, other than in the capacity of a member of the workforce of such *Business Associate*.

“*Successful Security Incident*” shall mean a *Security Incident* that results in the unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System.

“*Unsuccessful Security Incident*” shall mean a *Security Incident* such as routine occurrences that do not result in unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with system operations in an Information System, such as: (i) unsuccessful attempts to penetrate computer networks or services maintained by *Business Associate*; and (ii) immaterial incidents such as pings and other broadcast attacks on *Business Associate's* firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above with respect to *Business Associate's* Information System.

“*Targeted Unsuccessful Security Incident*” means an *Unsuccessful Security Incident* that appears to be an attempt to obtain unauthorized Access, Use, Disclosure, modification or destruction of the Covered Entity's *Electronic PHI*.

2. Contact Information for Privacy and Security Officers and Reports.

2.1 *Business Associate* shall provide, within ten (10) days of the execution of this Agreement, written notice to the Contract or Grant manager the names and contact information of both the HIPAA Privacy Officer and HIPAA Security Officer of the *Business Associate*. This information must be updated by *Business Associate* any time these contacts change.

2.2 Covered Entity's HIPAA Privacy Officer and HIPAA Security Officer contact information is posted at: <https://humanservices.vermont.gov/rules-policies/health-insurance-portability-and-accountability-act-hipaa>

2.3 *Business Associate* shall submit all *Reports* required by this Agreement to the following email address: AHS.PrivacyAndSecurity@vermont.gov

3. Permitted and Required Uses/Disclosures of PHI.

3.1 Subject to the terms in this Agreement, *Business Associate* may Use or Disclose *PHI* to perform *Services*, as specified in the Contract or Grant. Such Uses and Disclosures are limited to

the minimum necessary to provide the *Services*. *Business Associate* shall not Use or Disclose *PHI* in any manner that would constitute a violation of the Privacy Rule if Used or Disclosed by Covered Entity in that manner. *Business Associate* may not Use or Disclose *PHI* other than as permitted or required by this Agreement or as *Required by Law* and only in compliance with applicable laws and regulations.

3.2 *Business Associate* may make *PHI* available to its Workforce, *Agent* and *Subcontractor* who need Access to perform *Services* as permitted by this Agreement, provided that *Business Associate* makes them aware of the Use and Disclosure restrictions in this Agreement and binds them to comply with such restrictions.

3.3 *Business Associate* shall be directly liable under HIPAA for impermissible Uses and Disclosures of *PHI*.

4. **Business Activities.** *Business Associate* may Use *PHI* if necessary for *Business Associate's* proper management and administration or to carry out its legal responsibilities. *Business Associate* may Disclose *PHI* for *Business Associate's* proper management and administration or to carry out its legal responsibilities if a Disclosure is *Required by Law* or if *Business Associate* obtains reasonable written assurances via a written agreement from the Person to whom the information is to be Disclosed that such *PHI* shall remain confidential and be Used or further Disclosed only as *Required by Law* or for the purpose for which it was Disclosed to the Person, and the Agreement requires the Person to notify *Business Associate*, within five (5) business days, in writing of any *Breach* of Unsecured *PHI* of which it is aware. Such Uses and Disclosures of *PHI* must be of the minimum amount necessary to accomplish such purposes.

5. **Electronic PHI Security Rule Obligations.**

5.1 With respect to *Electronic PHI*, *Business Associate* shall:

- a) Implement and use Administrative, Physical, and Technical Safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312;
- b) Identify in writing upon request from Covered Entity all the safeguards that it uses to protect such *Electronic PHI*;
- c) Prior to any Use or Disclosure of *Electronic PHI* by an *Agent* or *Subcontractor*, ensure that any *Agent* or *Subcontractor* to whom it provides *Electronic PHI* agrees in writing to implement and use Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of *Electronic PHI*. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *Electronic PHI*, and be provided to Covered Entity upon request;
- d) Report in writing to Covered Entity any *Successful Security Incident* or *Targeted Unsuccessful Security Incident* as soon as it becomes aware of such incident and in no event later than five (5) business days after such awareness. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available;

e) Following such *Report*, provide Covered Entity with the information necessary for Covered Entity to investigate any such incident; and

f) Continue to provide to Covered Entity information concerning the incident as it becomes available to it.

5.2 Reporting *Unsuccessful Security Incidents*. *Business Associate* shall provide Covered Entity upon written request a *Report* that: (a) identifies the categories of Unsuccessful Security Incidents; (b) indicates whether *Business Associate* believes its current defensive security measures are adequate to address all *Unsuccessful Security Incidents*, given the scope and nature of such attempts; and (c) if the security measures are not adequate, the measures *Business Associate* will implement to address the security inadequacies.

5.3 *Business Associate* shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

6. **Reporting and Documenting Breaches.**

6.1 *Business Associate* shall *Report* to Covered Entity any *Breach* of Unsecured *PHI* as soon as it, or any Person to whom *PHI* is disclosed under this Agreement, becomes aware of any such *Breach*, and in no event later than five (5) business days after such awareness, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. Such *Report* shall be timely made notwithstanding the fact that little information may be known at the time of the *Report* and need only include such information then available.

6.2 Following the *Report* described in 6.1, *Business Associate* shall conduct a risk assessment and provide it to Covered Entity with a summary of the event. *Business Associate* shall provide Covered Entity with the names of any *Individual* whose Unsecured *PHI* has been, or is reasonably believed to have been, the subject of the *Breach* and any other available information that is required to be given to the affected *Individual*, as set forth in 45 CFR § 164.404(c). Upon request by Covered Entity, *Business Associate* shall provide information necessary for Covered Entity to investigate the impermissible Use or Disclosure. *Business Associate* shall continue to provide to Covered Entity information concerning the *Breach* as it becomes available.

6.3 When *Business Associate* determines that an impermissible acquisition, Access, Use or Disclosure of *PHI* for which it is responsible is not a *Breach*, and therefore does not necessitate notice to the impacted *Individual*, it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). *Business Associate* shall make its risk assessment available to Covered Entity upon request. It shall include 1) the name of the person making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the *PHI* had been compromised.

7. **Mitigation and Corrective Action.** *Business Associate* shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible Use or Disclosure of *PHI*, even if the impermissible Use or Disclosure does not constitute a *Breach*. *Business Associate* shall draft and carry out a plan of corrective action to address any incident of impermissible Use or Disclosure of *PHI*. *Business Associate* shall make its mitigation and corrective action plans available to Covered Entity upon request.

8. Providing Notice of Breaches.

8.1 If Covered Entity determines that a *Breach* of *PHI* for which *Business Associate* was responsible, and if requested by Covered Entity, *Business Associate* shall provide notice to the *Individual* whose *PHI* has been the subject of the *Breach*. When so requested, *Business Associate* shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. *Business Associate* shall be responsible for the cost of notice and related remedies.

8.2 The notice to affected *Individuals* shall be provided as soon as reasonably possible and in no case later than sixty (60) calendar days after *Business Associate* reported the *Breach* to Covered Entity.

8.3 The notice to affected *Individuals* shall be written in plain language and shall include, to the extent possible: 1) a brief description of what happened; 2) a description of the types of Unsecured *PHI* that were involved in the *Breach*; 3) any steps *Individuals* can take to protect themselves from potential harm resulting from the *Breach*; 4) a brief description of what the *Business Associate* is doing to investigate the *Breach* to mitigate harm to *Individuals* and to protect against further *Breaches*; and 5) contact procedures for *Individuals* to ask questions or obtain additional information, as set forth in 45 CFR § 164.404(c).

8.4 *Business Associate* shall notify *Individuals* of *Breaches* as specified in 45 CFR § 164.404(d) (methods of *Individual* notice). In addition, when a *Breach* involves more than 500 residents of Vermont, *Business Associate* shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR § 164.406.

9. Agreements with Subcontractors. *Business Associate* shall enter into a Business Associate Agreement with any *Subcontractor* to whom it provides *PHI* to require compliance with HIPAA and to ensure *Business Associate* and *Subcontractor* comply with the terms and conditions of this Agreement. *Business Associate* must enter into such written agreement before any Use by or Disclosure of *PHI* to such *Subcontractor*. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the Use or Disclosure of *PHI*. *Business Associate* shall provide a copy of the written agreement it enters into with a *Subcontractor* to Covered Entity upon request. *Business Associate* may not make any Disclosure of *PHI* to any *Subcontractor* without prior written consent of Covered Entity.

10. Access to PHI. *Business Associate* shall provide access to *PHI* in a Designated Record Set to Covered Entity or as directed by Covered Entity to an *Individual* to meet the requirements under 45 CFR § 164.524. *Business Associate* shall provide such access in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any request for Access to *PHI* that *Business Associate* directly receives from an *Individual*.

11. Amendment of PHI. *Business Associate* shall make any amendments to *PHI* in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526, whether at the request of Covered Entity or an *Individual*. *Business Associate* shall make such amendments in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any request for amendment to *PHI* that *Business Associate* directly receives from an *Individual*.

12. Accounting of Disclosures. *Business Associate* shall document Disclosures of *PHI* and all information related to such Disclosures as would be required for Covered Entity to respond to a request by an *Individual* for an accounting of disclosures of *PHI* in accordance with 45 CFR § 164.528. *Business Associate* shall provide such information to Covered Entity or as directed by Covered Entity to an *Individual*, to permit Covered Entity to respond to an accounting request. *Business Associate* shall provide such information in the time and manner reasonably designated by Covered Entity. Within five (5) business days, *Business Associate* shall forward to Covered Entity for handling any accounting request that *Business Associate* directly receives from an *Individual*.

13. Books and Records. Subject to the attorney-client and other applicable legal privileges, *Business Associate* shall make its internal practices, books, and records (including policies and procedures and *PHI*) relating to the Use and Disclosure of *PHI* available to the Secretary of Health and Human Services (HHS) in the time and manner designated by the Secretary. *Business Associate* shall make the same information available to Covered Entity, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether *Business Associate* is in compliance with this Agreement.

14. Termination.

14.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all the *PHI* is destroyed or returned to Covered Entity subject to Section 18.8.

14.2 If *Business Associate* fails to comply with any material term of this Agreement, Covered Entity may provide an opportunity for *Business Associate* to cure. If *Business Associate* does not cure within the time specified by Covered Entity or if Covered Entity believes that cure is not reasonably possible, Covered Entity may immediately terminate the Contract or Grant without incurring liability or penalty for such termination. If neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary of HHS. Covered Entity has the right to seek to cure such failure by *Business Associate*. Regardless of whether Covered Entity cures, it retains any right or remedy available at law, in equity, or under the Contract or Grant and *Business Associate* retains its responsibility for such failure.

15. Return/Destruction of PHI.

15.1 *Business Associate* in connection with the expiration or termination of the Contract or Grant shall return or destroy, at the discretion of the Covered Entity, *PHI* that *Business Associate* still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. *Business Associate* shall not retain any copies of *PHI*. *Business Associate* shall certify in writing and report to Covered Entity (1) when all *PHI* has been returned or destroyed and (2) that *Business Associate* does not continue to maintain any *PHI*. *Business Associate* is to provide this certification during this thirty (30) day period.

15.2 *Business Associate* shall report to Covered Entity any conditions that *Business Associate* believes make the return or destruction of *PHI* infeasible. *Business Associate* shall extend the protections of this Agreement to such *PHI* and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible for so long as *Business Associate* maintains such *PHI*.

16. **Penalties.** *Business Associate* understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of *PHI* and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations.

17. **Training.** *Business Associate* understands its obligation to comply with the law and shall provide appropriate training and education to ensure compliance with this Agreement. If requested by Covered Entity, *Business Associate* shall participate in Covered Entity's training regarding the Use, Confidentiality, and Security of *PHI*; however, participation in such training shall not supplant nor relieve *Business Associate* of its obligations under this Agreement to independently assure compliance with the law and this Agreement.

18. **Miscellaneous.**

18.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Contract or Grant, the terms of this Agreement shall govern with respect to its subject matter. Otherwise, the terms of the Contract or Grant continue in effect.

18.2 Each party shall cooperate with the other party to amend this Agreement from time to time as is necessary for such party to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA. This Agreement may not be amended, except by a writing signed by all parties hereto.

18.3 Any ambiguity in this Agreement shall be resolved to permit the parties to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.

18.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule, Security Rule, and HITECH) in construing the meaning and effect of this Agreement.

18.5 *Business Associate* shall not have or claim any ownership of *PHI*.

18.6 *Business Associate* shall abide by the terms and conditions of this Agreement with respect to all *PHI* even if some of that information relates to specific services for which *Business Associate* may not be a "*Business Associate*" of Covered Entity under the Privacy Rule.

18.7 *Business Associate* is prohibited from directly or indirectly receiving any remuneration in exchange for an *Individual's PHI*. *Business Associate* will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. *Reports* or data containing *PHI* may not be sold without Covered Entity's or the affected *Individual's* written consent.

18.8 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for *Business Associate* to return or destroy *PHI* as provided in Section 14.2 and (b) the obligation of *Business Associate* to provide an accounting of disclosures as set forth in Section 12 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

Rev. 05/22/2020

ATTACHMENT F
AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT PROVISIONS

1. **Definitions:** For purposes of this Attachment F, the term "Agreement" shall mean the form of the contract or grant, with all of its parts, into which this Attachment F is incorporated. The meaning of the term "Party" when used in this Attachment F shall mean any named party to this Agreement *other than* the State of Vermont, the Agency of Human Services (AHS) and any of the departments, boards, offices and business units named in this Agreement. As such, the term "Party" shall mean, when used in this Attachment F, the Contractor or Grantee with whom the State of Vermont is executing this Agreement. If Party, when permitted to do so under this Agreement, seeks by way of any subcontract, sub-grant or other form of provider agreement to employ any other person or entity to perform any of the obligations of Party under this Agreement, Party shall be obligated to ensure that all terms of this Attachment F are followed. As such, the term "Party" as used herein shall also be construed as applicable to, and describing the obligations of, any subcontractor, sub-recipient or sub-grantee of this Agreement. Any such use or construction of the term "Party" shall not, however, give any subcontractor, sub-recipient or sub-grantee any substantive right in this Agreement without an express written agreement to that effect by the State of Vermont.
2. **Agency of Human Services:** The Agency of Human Services is responsible for overseeing all contracts and grants entered by any of its departments, boards, offices and business units, however denominated. The Agency of Human Services, through the business office of the Office of the Secretary, and through its Field Services Directors, will share with any named AHS-associated party to this Agreement oversight, monitoring and enforcement responsibilities. Party agrees to cooperate with both the named AHS-associated party to this contract and with the Agency of Human Services itself with respect to the resolution of any issues relating to the performance and interpretation of this Agreement, payment matters and legal compliance.
3. **Medicaid Program Parties** (*applicable to any Party providing services and supports paid for under Vermont's Medicaid program and Vermont's Global Commitment to Health Waiver*):

Inspection and Retention of Records: In addition to any other requirement under this Agreement or at law, Party must fulfill all state and federal legal requirements, and will comply with all requests appropriate to enable the Agency of Human Services, the U.S. Department of Health and Human Services (along with its Inspector General and the Centers for Medicare and Medicaid Services), the Comptroller General, the Government Accounting Office, or any of their designees: (i) to evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed under this Agreement; and (ii) to inspect and audit any records, financial data, contracts, computer or other electronic systems of Party relating to the performance of services under Vermont's Medicaid program and Vermont's Global Commitment to Health Waiver. Party will retain for ten years all documents required to be retained pursuant to 42 CFR 438.3(u).

Subcontracting for Medicaid Services: Notwithstanding any permitted subcontracting of services to be performed under this Agreement, Party shall remain responsible for ensuring that this Agreement is fully performed according to its terms, that subcontractor remains in compliance with the terms hereof, and that subcontractor complies with all state and federal laws and regulations relating to the Medicaid program in Vermont. Subcontracts, and any service provider agreements entered into by Party in connection with the performance of this Agreement, must clearly specify in writing the responsibilities of the subcontractor or other service provider and Party must retain the authority to revoke its subcontract or service provider agreement or to impose other sanctions if the performance

of the subcontractor or service provider is inadequate or if its performance deviates from any requirement of this Agreement. Party shall make available on request all contracts, subcontracts and service provider agreements between the Party, subcontractors and other service providers to the Agency of Human Services and any of its departments as well as to the Center for Medicare and Medicaid Services.

Medicaid Notification of Termination Requirements: Party shall follow the Department of Vermont Health Access Managed-Care-Organization enrollee-notification requirements, to include the requirement that Party provide timely notice of any termination of its practice.

Encounter Data: Party shall provide encounter data to the Agency of Human Services and/or its departments and ensure further that the data and services provided can be linked to and supported by enrollee eligibility files maintained by the State.

Federal Medicaid System Security Requirements Compliance: Party shall provide a security plan, risk assessment, and security controls review document within three months of the start date of this Agreement (and update it annually thereafter) in order to support audit compliance with 45 CFR 95.621 subpart F, *ADP System Security Requirements and Review Process*.

4. **Workplace Violence Prevention and Crisis Response** (*applicable to any Party and any subcontractors and sub-grantees whose employees or other service providers deliver social or mental health services directly to individual recipients of such services*):

Party shall establish a written workplace violence prevention and crisis response policy meeting the requirements of Act 109 (2016), 33 VSA §8201(b), for the benefit of employees delivering direct social or mental health services. Party shall, in preparing its policy, consult with the guidelines promulgated by the U.S. Occupational Safety and Health Administration for *Preventing Workplace Violence for Healthcare and Social Services Workers*, as those guidelines may from time to time be amended.

Party, through its violence protection and crisis response committee, shall evaluate the efficacy of its policy, and update the policy as appropriate, at least annually. The policy and any written evaluations thereof shall be provided to employees delivering direct social or mental health services.

Party will ensure that any subcontractor and sub-grantee who hires employees (or contracts with service providers) who deliver social or mental health services directly to individual recipients of such services, complies with all requirements of this Section.

5. **Non-Discrimination:**

Party shall not discriminate, and will prohibit its employees, agents, subcontractors, sub-grantees and other service providers from discrimination, on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, and on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. Party shall not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity as provided by Title 9 V.S.A. Chapter 139.

No person shall on the grounds of religion or on the grounds of sex (including, on the grounds that a woman is pregnant), be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by State of Vermont and/or federal funds.

Party further shall comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, requiring that contractors and subcontractors receiving federal funds assure that persons with limited English proficiency can meaningfully access services. To the extent Party provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services, such individuals cannot be required to pay for such services.

6. **Employees and Independent Contractors:**

Party agrees that it shall comply with the laws of the State of Vermont with respect to the appropriate classification of its workers and service providers as “employees” and “independent contractors” for all purposes, to include for purposes related to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages. Party agrees to ensure that all of its subcontractors or sub-grantees also remain in legal compliance as to the appropriate classification of “workers” and “independent contractors” relating to unemployment compensation insurance and workers compensation coverage, and proper payment and reporting of wages. Party will on request provide to the Agency of Human Services information pertaining to the classification of its employees to include the basis for the classification. Failure to comply with these obligations may result in termination of this Agreement.

7. **Data Protection and Privacy:**

Protected Health Information: Party shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this Agreement. Party shall follow federal and state law relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: Substance abuse treatment information shall be maintained in compliance with 42 C.F.R. Part 2 if the Party or subcontractor(s) are Part 2 covered programs, or if substance abuse treatment information is received from a Part 2 covered program by the Party or subcontractor(s).

Protection of Personal Information: Party agrees to comply with all applicable state and federal statutes to assure protection and security of personal information, or of any personally identifiable information (PII), including the Security Breach Notice Act, 9 V.S.A. § 2435, the Social Security Number Protection Act, 9 V.S.A. § 2440, the Document Safe Destruction Act, 9 V.S.A. § 2445 and 45 CFR 155.260. As used here, PII shall include any information, in any medium, including electronic, which can be used to distinguish or trace an individual’s identity, such as his/her name, social security number, biometric records, etc., either alone or when combined with any other personal or identifiable information that is linked or linkable to a specific person, such as date and place or birth, mother’s maiden name, etc.

Other Confidential Consumer Information: Party agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to and uses of personal information relating to any beneficiary or

recipient of goods, services or other forms of support. Party further agrees to comply with any applicable Vermont State Statute and other regulations respecting the right to individual privacy. Party shall ensure that all of its employees, subcontractors and other service providers performing services under this agreement understand and preserve the sensitive, confidential and non-public nature of information to which they may have access.

Data Breaches: Party shall report to AHS, through its Chief Information Officer (CIO), any impermissible use or disclosure that compromises the security, confidentiality or privacy of any form of protected personal information identified above within 24 hours of the discovery of the breach. Party shall in addition comply with any other data breach notification requirements required under federal or state law.

8. **Abuse and Neglect of Children and Vulnerable Adults:**

Abuse Registry. Party agrees not to employ any individual, to use any volunteer or other service provider, or to otherwise provide reimbursement to any individual who in the performance of services connected with this agreement provides care, custody, treatment, transportation, or supervision to children or to vulnerable adults if there has been a substantiation of abuse or neglect or exploitation involving that individual. Party is responsible for confirming as to each individual having such contact with children or vulnerable adults the non-existence of a substantiated allegation of abuse, neglect or exploitation by verifying that fact through (a) as to vulnerable adults, the Adult Abuse Registry maintained by the Department of Disabilities, Aging and Independent Living and (b) as to children, the Central Child Protection Registry (unless the Party holds a valid child care license or registration from the Division of Child Development, Department for Children and Families). See 33 V.S.A. §4919(a)(3) and 33 V.S.A. §6911(c)(3).

Reporting of Abuse, Neglect, or Exploitation. Consistent with provisions of 33 V.S.A. §4913(a) and §6903, Party and any of its agents or employees who, in the performance of services connected with this agreement, (a) is a caregiver or has any other contact with clients and (b) has reasonable cause to believe that a child or vulnerable adult has been abused or neglected as defined in Chapter 49 or abused, neglected, or exploited as defined in Chapter 69 of Title 33 V.S.A. shall: as to children, make a report containing the information required by 33 V.S.A. §4914 to the Commissioner of the Department for Children and Families within 24 hours; or, as to a vulnerable adult, make a report containing the information required by 33 V.S.A. §6904 to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. Party will ensure that its agents or employees receive training on the reporting of abuse or neglect to children and abuse, neglect or exploitation of vulnerable adults.

9. **Information Technology Systems:**

Computing and Communication: Party shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Party as part of this agreement. Options include, but are not limited to:

1. Party's provision of certified computing equipment, peripherals and mobile devices, on a separate Party's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.

2. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

Intellectual Property/Work Product Ownership: All data, technical information, materials first gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement -- including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement, or are a result of the services required under this grant -- shall be considered "work for hire" and remain the property of the State of Vermont, regardless of the state of completion unless otherwise specified in this agreement. Such items shall be delivered to the State of Vermont upon 30-days notice by the State. With respect to software computer programs and / or source codes first developed for the State, all the work shall be considered "work for hire," i.e., the State, not the Party (or subcontractor or sub-grantee), shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

Party shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State of Vermont.

If Party is operating a system or application on behalf of the State of Vermont, Party shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Party's materials.

Party acknowledges and agrees that should this agreement be in support of the State's implementation of the Patient Protection and Affordable Care Act of 2010, Party is subject to the certain property rights provisions of the Code of Federal Regulations and a Grant from the Department of Health and Human Services, Centers for Medicare & Medicaid Services. Such agreement will be subject to, and incorporates here by reference, 45 CFR 74.36, 45 CFR 92.34 and 45 CFR 95.617 governing rights to intangible property.

Security and Data Transfers: Party shall comply with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Party of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Party to implement any required.

Party will ensure the physical and data security associated with computer equipment, including desktops, notebooks, and other portable devices, used in connection with this Agreement. Party will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. Party will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, Party shall securely delete data (including archival backups) from Party's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

Party, in the event of a data breach, shall comply with the terms of Section 7 above.

10. **Other Provisions:**

Environmental Tobacco Smoke: Public Law 103-227 (also known as the Pro-Children Act of 1994) and Vermont's Act 135 (2014) (An act relating to smoking in lodging establishments, hospitals, and child care facilities, and on State lands) restrict the use of tobacco products in certain settings. Party shall ensure that no person is permitted: (i) to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time; (ii) to use tobacco products or tobacco substitutes on the premises, both indoor and in any outdoor area designated for child care, health or day care services, kindergarten, pre-kindergarten, elementary, or secondary education or library services; and (iii) to use tobacco products or tobacco substitutes on the premises of a licensed or registered family child care home while children are present and in care. Party will refrain from promoting the use of tobacco products for all clients and from making tobacco products available to minors.

Failure to comply with the provisions of the federal law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. The federal Pro-Children Act of 1994, however, does not apply to portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

2-1-1 Database: If Party provides health or human services within Vermont, or if Party provides such services near the Vermont border readily accessible to residents of Vermont, Party shall adhere to the "Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211 (Vermont 211), and will provide to Vermont 211 relevant descriptive information regarding its agency, programs and/or contact information as well as accurate and up to date information to its database as requested. The "Inclusion/Exclusion" policy can be found at www.vermont211.org.

Voter Registration: When designated by the Secretary of State, Party agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.

Drug Free Workplace Act: Party will assure a drug-free workplace in accordance with 45 CFR Part 76.

Lobbying: No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.

APPENDIX 1:

ADDITIONAL QUESTIONS FOR THE CAHPS® PCMH SURVEYS

The questions anticipated to be added to the CAHPS® PCMH adult survey are:

Patient-Centered Medical Home (PCMH) Item Set

PCMH 1. Did this provider's office give you information about what to do if you needed care during evenings, weekends, or holidays?

- ☐ Yes
- ☐ No

PCMH 2. Specialists are doctors like surgeons, heart doctors, allergy doctors, skin doctors, and other doctors who specialize in one area of health care. In the last 6 months, did you see a specialist for a particular health problem?

- ☐ Yes
- ☐ No → If No, go to #PCMH4

PCMH 3. In the last 6 months, how often did the provider named in Question 1 seem informed and up-to-date about the care you got from specialists?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

PCMH 4. Please answer these questions about the provider named in Question 1 of this survey.

In the last 6 months, did someone from this provider's office talk with you about specific goals for your health?

- ☐ Yes
- ☐ No

PCMH 5. In the last 6 months, did someone from this provider's office ask you if there are things that make it hard for you to take care of your health?

- ☐ Yes
- ☐ No

PCMH 6. In the last 6 months, did you and someone from this provider's office talk about things in your life that worry you or cause you stress?

- ☐ Yes
- ☐ No

State Custom (SC) questions

SC 1. In the last 6 months, did you try to make any appointments with specialists?

- ☐ Yes
- ☐ No → Go to Question [skip]

SC 2. In the last 6 months, how often was it easy to get appointments with specialists?

- ☐ Never

- ☐ Sometimes
- ☐ Usually
- ☐ Always

SC 3. In the last 6 months, how often did the specialist you saw most seem to know the important information about your medical history?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

SC 4. In the last 6 months, how often did the specialist you saw seem informed and up-to-date about any care you got from other service and support providers, such as home health agencies, area agencies on aging, developmental or mental health service agencies, substance abuse providers, vocational rehabilitation, etc.?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always
- ☐ I did not get care from other service and support providers in the last 6 months [skip]➤

SC 5. In the last 6 months, how often did the provider named in Question 1 seem informed and up to date about any care you got from other service and support providers, such as home health agencies, area agencies on aging, developmental or mental health service agencies, substance abuse providers, vocational rehabilitation, etc.?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always
- ☐ I did not get care from other service and support providers in the last 6 months
- ☐ I did not get care from the provider named in Question 1 in the last 6 months

SC 6. One of the impacts of the COVID-19 epidemic has been an increase in telemedicine (visits with providers by video or telephone). For the care received in the last 6 months from the provider listed in question 1, how did you receive that care?

- ☐ In-person visit
- ☐ Video visit
- ☐ Telephone visit
- ☐ Both in-person and by video or telephone over multiple visits
- ☐ Do not know

SC 7. In the last 6 months, did you get care from more than one kind of health care or support service provider, or use more than one kind of health care service or support service?

- ☐ Yes
- ☐ No → [skip]

SC 8. In the last 6 months, did you need help from anyone in your personal doctor's office or support service provider's office to manage your care among these different providers and services?

- ☐ Yes

- ☐ No → [skip]

SC 9. In the last 6 months, how often did you get the help that you needed from your personal doctor's office or support service provider's office to manage your care among these different providers and services?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

The next four questions ask about your knowledge of the Vermont Health Information Exchange. The Vermont Health Information Exchange electronically collects information about the health care you receive. It can make this information available to your health care providers to inform your care.

SC 10. Did you know that you can stop your health care providers from seeing your health information available in the Vermont Health Information Exchange?

- ☐ Yes
- ☐ No → Go to Question 29

SC 11. Do you have enough information about the Vermont Health Information Exchange to decide whether you want your providers to see your health information available in the Exchange?

- ☐ Yes
- ☐ No
- ☐ Do not know

SC 12. Do you know how to stop your providers from seeing your health information available in the Vermont Health Information Exchange?

- ☐ Yes
- ☐ No → Go to Question 29

SC 13. If you already stopped your health care providers from seeing your information, how easy was it to do?

- ☐ Easy
- ☐ Neither easy nor hard
- ☐ Hard
- ☐ I do not want to stop my providers from seeing my health information in the Exchange

The questions anticipated to be added to the CAHPS® PCMH child survey are:

PCMH 1. Did this provider's office give you information about what to do if your child needed care during evenings, weekends, or holidays?

- ☐ Yes
- ☐ No

PCMH 2. Specialists are doctors like surgeons, heart doctors, allergy doctors, skin doctors, and other doctors who specialize in one area of health care. In the last 6 months, did your child see a specialist for a particular health problem?

- ☐ Yes
- ☐ No → If No, go to #PCMH4

PCMH 3. In the last 6 months, how often did the provider named in Question 1 seem informed and up-to-date about the care your child got from specialists?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

PCMH 4. Please answer these questions about the provider named in Question 1 of this survey.
In the last 6 months, did you and someone from this provider's office talk about the kinds of behaviors that are normal for your child at this age?

- ☐ Yes
- ☐ No

PCMH 5. In the last 6 months, did you and someone from this provider's office talk about how your child's body is growing?

- ☐ Yes
- ☐ No

PCMH 6. In the last 6 months, did you and someone from this provider's office talk about your child's moods and emotions?

- ☐ Yes
- ☐ No

PCMH 7. In the last 6 months, did you and someone from this provider's office talk about things you can do to keep your child from getting injured?

- ☐ Yes
- ☐ No

PCMH 8. In the last 6 months, did you and someone from this provider's office talk about how much or what kind of food your child eats?

- ☐ Yes
- ☐ No

PCMH 9. In the last 6 months, did you and someone from this provider's office talk about how much or what kind of exercise your child gets?

- ☐ Yes
- ☐ No

PCMH 10. In the last 6 months, did you and someone from this provider's office talk about how your child gets along with others?

- ☐ Yes
- ☐ No

State Custom (SC) Questions

SC 1. In the last 6 months, did you try to make any appointments with specialists for your child?

- ☐ Yes
- ☐ No →[Skip]

SC 2. In the last 6 months, how often was it easy to get appointments with specialists for your child?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

SC 3. In the last 6 months, how often did the specialist your child saw most seem to know the important information about his/her medical history?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

SC4. In the last 6 months, how often did the specialist your child saw seem informed and up-to-date about any care your child got from other service and support providers, such as home health agencies, area agencies on aging, developmental or mental health service agencies, substance abuse providers, vocational rehabilitation, etc.?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always
- ☐ My child did not get care from other service and support providers in the last 6 months → [skip]

SC 5. In the last 6 months, how often did the provider named in Question 1 seem informed and up-to-date about any care your child got from other service and support providers, such as home health agencies, area agencies on aging, developmental or mental health service agencies, substance abuse providers, vocational rehabilitation, etc.?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always
- ☐ My child did not get care from other service and support providers in the last 6 months

SC 6. One of the impacts of the COVID-19 epidemic has been an increase in telemedicine (visits with providers by video or telephone). For the care received in the last 6 months from the provider listed in question 1, how did your child receive that care?

- ☐ In-person visit
- ☐ Video visit
- ☐ Telephone visit
- ☐ Both in-person and by video or telephone over multiple visits
- ☐ Do not know

SC 7. In the last 6 months, did your child get care from more than one kind of health care or support service provider, or use more than one kind of health care service or support service?

- ☐ Yes
- ☐ No → [skip]

SC 8. In the last 6 months, did you need help from anyone in your child's personal doctor's office or support service provider's office to manage your child's care among these different providers and services?

- ☐ Yes
- ☐ No → [skip]

SC 9. In the last 6 months, how often did you get the help that you needed from your child's personal doctor's office or support service provider's office to manage your care among these different providers and services?

- ☐ Never
- ☐ Sometimes
- ☐ Usually
- ☐ Always

The next four questions ask about your knowledge of the Vermont Health Information Exchange. The Vermont Health Information Exchange electronically collects information about the health care your child receives. It can make this information available to your child's health care providers to inform his or her care.

SC 10. Did you know that you can stop your health care providers from seeing your child's health information available in the Vermont Health Information Exchange?

- ☐ Yes
- ☐ No → Go to Question 29

SC 11. Do you have enough information about the Vermont Health Information Exchange to decide whether you want your providers to see your child's health information available in the Exchange?

- ☐ Yes
- ☐ No
- ☐ Do not know

SC 12. Do you know how to stop your providers from seeing your child's health information available in the Vermont Health Information Exchange?

- ☐ Yes
- ☐ No → Go to Question 29

SC 13. If you already stopped your health care providers from seeing your child's information, how easy was it to do?

- ☐ Easy
- ☐ Neither easy nor hard
- ☐ Hard
- ☐ I do not want to stop my providers from seeing my health information in the Exchange